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PETITION UNDER 37 CFR 1.137(b) FOR REVIVAL OF PATENT APPLICATION ABANDONED <u>UNINTENTIONALLY</u>		Atty. Dkt.: 051501	0276397
		C#	M#

First named inventor: Ware


Application No.: 09/549,096

Filed: April 12, 2000

Title: LIGAND FOR HERPES SIMPLEX VIRUS ENTRY MEDIATOR AND METHODS OF USE

Group Art Unit: 1644

Examiner: P. Huynh



Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: April 19, 2004

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee (X one box and insert fee)

☒ Small entity-fee \$665 (fee code 2453). Applicant claims small entity status.

☐ Large entity - fee \$1330 (fee code 1453).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Request for Continued Examination (identify type of reply):

☐ has been filed previously on _____

☒ is enclosed.

B. The issue fee of \$ _____:

☐ has been paid previously on _____

☐ is charged on enclosed form PTOL - 85b.

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3. Terminal disclaimer with disclaimer fee (See note (3) above)

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$55 for a small entity (fee code 2814) or \$110 for large entity (fee code 1814) disclaiming the required period of time is charged per Charge Statement below.

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

5. CHARGE STATEMENT: Please charge any fee required by items 1, 2 and 3 above to our Deposit Account No. 50-2212 under Order No. 051501/0276397.
C# M#

Enclosures: ☒ Reply (RCE) ☐ Terminal Disclaimer
☐ Additional sheets containing statements establishing unintentional delay
☒ Other: IDS; Request for Examiner Interview; Postcard Receipt

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450.

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as Express Mail (Express Mail Label No. EL 988001705 US) in an envelope addressed to: Mail Stop Petition, Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

April 19, 2004
Date


Signature

Sachiko Y. Snedden
Type or printed name of person signing certificate

Respectfully submitted,
Pillsbury Winthrop LLP
Intellectual Property Group

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Suite 200
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Tel: (619) 234-5000

By Atty: Robert M. Bedgood, Ph.D.

Reg. No. 43,488

Sig: 

Fax: (858) 509-4010
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Atty/Sec: RMB/sys



CERTIFICATE OF EXPRESS MAILING UNDER 37 C.F.R. §1.10

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being mailed via "Express Mail Post Office to Addressee" service of the United States Postal Service (Express Mail Label No. EL 988001705 US) on the date shown below in an envelope addressed to the Commissioner of Patent & Trademarks, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: April 19, 2004

By: 
Sachiko Y. Snedden

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**PATENT
APPLICATION**

In re: PATENT APPLICATION of:

Inventor(s): Ware

Appln. No.: 09	549,096
Series Code ↑	Serial No. ↑

Group Art Unit 1644

Examiner: P. Huynh

Atty. Dkt. 051501-0276397	Client Ref
C-M	

Filed: April 12, 2000

Title: LIGAND FOR HERPES SIMPLEX VIRUS
ENTRY MEDIATOR AND METHODS
OF USE

**R
C
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E**

**DO NOT USE FOR PROVISIONAL,
DIVISIONAL, CIP OR DESIGN
APPLICATIONS, OR
REEXAMINATION OF PATENTS**

Mail Stop RCE
Hon. Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: April 19, 2004

Sir:

REQUEST FOR CONTINUED EXAMINATION (RCE) UNDER RULE 114

Please continue the examination of this application.

PREREQUISITES

This application was filed on/after June 8, 1995, is not abandoned, and no court action has been filed, or if filed, it has been terminated.

An issue fee has not been paid (unless a petition under Rule 313(c)(2) is also being filed -- see item 4 below).

Prosecution has been closed as defined in Rule 114(b).

Reply to any outstanding action must be enclosed or previously filed.

This application is entitled under Rule 114 to withdrawal of any outstanding finality or of any allowance plus a new action by the Examiner. Consideration on the merits of each submission (e.g., IDS, Amendment, new arguments, new evidence, but not appeal/reply briefs themselves) filed herewith is respectfully requested.

Please consider the following before the next Official Action:

1. Please ☒ enter ☐ do not enter the Amendment filed August 26, 2003
2. ☐ The enclosed new Amendment
3. ☐ Consider the arguments in the appeal brief filed ___ and reply brief filed
4. ☐ The issue fee has been paid, but this RCE is based on Rule 313(c)(2). See enclosed petition.
5. ☒ The enclosed Information Disclosure Statement
☒ IDS Letter ☐ Cited Appln ☐ Foreign Search Report/OA
☒ PTO-1449 ☒ Cited Documents
6. ☐ Please suspend action under Rule 103(c) for a period of ___ months (3 mos. Max) for which charge the required \$130 fee (fee code 1808) to our Deposit Account (see below).
7. Petition is hereby made to extend the original due date of October 29, 2003 to cover the date this Request is filed. PLEASE CHARGE the requisite fee to our Deposit Account (see below)
- | | | |
|---------|--------------|--------|
| (1 mo) | \$110/\$55 | |
| (2 mos) | \$420/\$210 | |
| (3 mos) | \$950/\$475 | \$1005 |
| (4 mos) | \$1480/\$740 | |
| (5 mos) | \$2010/1005 | |
8. PLEASE CHARGE the Rule 17(e) (RCE) filing fee of ☐ \$770 (lg. ent.) ☒ \$385 (sm. ent.) plus any deficiency and any other fee due now or later to our Deposit

NOTE: Rule 17(e) filing fee Cannot be deferred!

NO CLAIMS FEE REQUIRED unless you are adding claims by box 2 Amendment in which case cover this with PAT-120.

Account No. 05-2212 under Order No. 051501 / 027 6397
C# M#

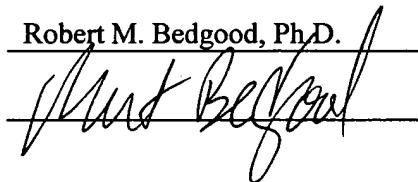
9. Other: Petition to Revive;
Request for Examiner Interview.

Pillsbury Winthrop LLP
Intellectual Property Group

By Atty:

Robert M. Bedgood, Ph.D.

Sig:



Reg.

No. 43,488

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Atty/Sec: RMB/sys

NOTE: File this Request (plus enclosures, if any) in duplicate and with PTO receipt (PAT-103A)